

1 MR. SAILLE: Are you practicing law at
2 this time?

3 MR. CONNER: Yes.

4 MR. KRAWITZ: I don't have anything else.

5 MR. WHITE: I don't have anything.

6 MR. KRAWITZ: You can proceed, if you
7 wish, to closing.

8 MR. WHITE: At the Panel's preference,
9 would you rather deliberate now if the Office
10 of Disciplinary Counsel made a prima facia
11 showing of at least one rule of violations,
12 and then evidence and aggravation and
13 mitigations could be included in the closings,
14 or hear closings now and deliberate after?

15 MR. KRAWITZ: We'd be okay with that.
16 Do you have any --

17 MR. CONNER: Yeah. I would like the
18 Panel to hear closing arguments before they
19 would deliberate on whether or not there is a
20 prima facie case or not.

21 MR. KRAWITZ: Okay, then we'll hear
22 closings and we'll deliberate. We can proceed
23 with closings.

24 MR. CONNER: Me first?

1 MR. KRAWITZ: Yes.

2 MR. WHITE: Yes. It's my burden.

3 MR. CONNER: I'm not going to belabor the
4 Panel with information that you have been
5 listening to all day today. I'm going to cut
6 straight to the chase.

7 Again, I refer you back to the Petition
8 for Discipline. The Petition for Discipline
9 basically alleges that I stole money from Ms.
10 Fauntleroy and that I failed to repay the
11 money.

12 The statute that the Disciplinary Counsel
13 relies upon is the criminal statute 18 PACS
14 Section 3927-A which is a criminal statute for
15 theft.

16 I alleged when I first began that I had
17 not stolen any money from Ms. Fauntleroy. And
18 it's my position that in order for the Panel
19 to find that I was in violation of any rules
20 of discipline, Disciplinary Counsel would have
21 to substantiate the fact that I stole money
22 from Ms. Fauntleroy.

23 There has been no dispute by Disciplinary
24 Counsel or from any witnesses as to the amount

1 of money Ms. Fauntleroy had in her possession
2 between August 1st, 2016 and April 27th, 2017.
3 That amount has been testified to, to be
4 \$137,385.55.

5 There has been no dispute about what
6 portion of that money was used for the benefit
7 of Ms. Fauntleroy. That amount of money was
8 \$78,384.37.

9 There was some cross-examination from
10 Disciplinary Counsel about salaries that were
11 paid for Shelio Thomas. But testimony from
12 Ms. Fauntleroy was that to her knowledge, all
13 of her caretakers had been paid for the
14 services that they provided. And Ms. Thomas
15 was not called upon to come in and to testify
16 that she had not been paid the amounts that I
17 set forth in the exhibit that I believe has
18 been marked as SR-5.

19 So there has been no testimony, no
20 dispute at all as to how much money Ms.
21 Fauntleroy had. There has been no dispute or
22 testimony as to how much money, what portion
23 of that money was used on her behalf. And
24 there has been no dispute or testimony as to

1 what amount of her money was remaining at the
2 time my Power of Attorney was revoked and the
3 amount of money that I paid her which would
4 have been the \$67,708.15.

5 Based on that, there has been no
6 testimony whatsoever that I ever stole any
7 money at all from Ms. Fauntleroy.
8 Disciplinary Counsel has talked about the
9 amount of money that I got off of the card
10 that I had that was Ms. Fauntleroy's.

11 But I have explained to you that as I
12 took money off of her card, I also deposited
13 my own money into her account. And I read off
14 the amounts of money that were deposited into
15 her account which was \$33,000. There has been
16 no dispute as to whether or not that money was
17 put in there. There has been no dispute about
18 any of it, even the \$10,000. There was no
19 dispute about Ms. Fauntleroy that that money
20 was not given to her to pay me for legal
21 services. There has been no dispute that I
22 didn't provide those legal services.

23 So monies that were deposited, \$33,000
24 into her account, there was no dispute that

1 that was my money and I deposited that money
2 into the account to address monies that she
3 allowed me to use off of her card.

4 In addition to that, there has been no
5 dispute whatsoever that I paid \$11,846.20 of
6 my own personal money to go towards expenses
7 for Ms. Fauntleroy. And lastly, there has
8 been no dispute at all that I returned
9 \$67,708.15.

10 Again, based on the four corners of this
11 document right here, there has been no proof
12 whatever that I stole any money. This is a
13 criminal statute, a criminal statute saying I
14 stole her money. For me to steal her money
15 means that I have to take her money and not
16 return her money.

17 I had an agreement with her about her
18 money. She may dispute that. But again, the
19 evidence was that there were documentations
20 that came to her, that we talked about that.
21 And that all of that money, every bit of money
22 that she had in her account was accounted for,
23 given back to her. And in fact, there was
24 more than what she had. It was over \$8000

1 more by mistake that I gave to her.

2 There is simply no evidence whatsoever
3 that I stole any money from her. And if there
4 is no evidence that I stole any money from her
5 which is asserted in this petition, then I
6 could not have violated any of the rules for
7 professional conduct for stealing.

8 MR. WHITE: Did Sarah Fauntleroy
9 authorize John Conner to use the funds in her
10 Wells Fargo account at various casino? Mr.
11 Conner just argued that there is no testimony
12 that he stole any money. He is partially
13 correct. He stipulated to executing \$100,000
14 worth of transactions against her account.
15 The only testimony was he wasn't authorized to
16 do so.

17 You heard Ms. Fauntleroy testify this
18 morning unequivocally that she never gave Mr.
19 Conner permission to use the funds in her
20 Wells Fargo account at a casino. He never
21 asked her for such permission. And had he
22 done so, she wouldn't have given it to him.

23 As I warned you this morning, Mr. Conner
24 offered no document in support of his

1 assertion that Ms. Fauntleroy authorized him
2 to use the funds in her Wells Fargo account at
3 a casino.

4 I could be mistaken, but I'm pretty sure
5 in his cross of Ms. Fauntleroy, Mr. Conner
6 never asked her if she had authorized him to
7 use the funds in her Wells Fargo account at a
8 casino.

9 Mr. Conner's own self-serving testimony
10 is not credible. He said several
11 conversations he had with Ms. Fauntleroy she
12 authorized him to use her debit card. He
13 couldn't tell me how many. He couldn't say
14 when those conversations were.

15 Today, he said when he used the money in
16 Ms. Fauntleroy's Wells Fargo account, it was
17 the loan -- or it wasn't a loan, but he agreed
18 to pay it back.

19 Then he said it was his money. He was
20 depositing his own money and spending his own
21 money just out of her account. But neither of
22 those explanations were in ODC-7, his
23 Statement of Position in response to a letter
24 from my office alleging he had executed

1 \$80,000 worth of transactions against Ms.
2 Fauntleroy's Wells Fargo account without her
3 knowledge or permission.

4 He claims he didn't include that because
5 he wasn't asked. But when someone receives a
6 letter accusing them of stealing \$80,000, why
7 wouldn't they include that explanation in
8 their response?

9 In his cross-examination of Ms.
10 Fauntleroy, he brought out that around the
11 time that Ms. Fauntleroy signed this Power of
12 Attorney, she was running out of money. In
13 spite of that, she authorized him to use her
14 debit card at the casino. It doesn't make
15 sense.

16 He said that she didn't have \$100,000 for
17 him to steal. Yet he liquidated a life
18 insurance policy in the amount of \$112,000
19 which was put in a saving account. And the
20 Panel can review the bank statements. Slowly
21 but surely, all of those funds were
22 transferred into Ms. Fauntleroy's Wells Fargo
23 account.

24 RS-5 -- excuse me, RS-4, the accounting

1 that Mr. Conner provided to Ms. Fauntleroy
2 doesn't match the casino transactions. Why?
3 Because he didn't have her permission to
4 execute them. He was concealing those
5 transactions from her.

6 Additionally, what else do we see about
7 those accountings in RS-4 and RS-5? There is
8 no support for the figures in there. I used
9 Ms. Thomas as an example. RS-4 says she was
10 paid a salary of about \$16,000. RS-5 says
11 it's \$19,000.

12 But we went through all of the checks
13 that Mr. Conner produced. And there was about
14 \$14,000 including \$1000 cash transaction.
15 Again, why did Mr. Conner inflate these
16 figures on the accounting he provided to Ms.
17 Fauntleroy? Because he was concealing what he
18 really did with Ms. Fauntleroy's funds.

19 Mr. Conner testified that he has fully
20 reimbursed Ms. Fauntleroy for all of her funds
21 that he spent at various casinos. He claims
22 this based on RS-5, which I have already, I
23 have already demonstrated the numbers RS-5
24 aren't reliable.

1 He does appear to have partially
2 reimbursed Ms. Fauntleroy. Between ODC-1 and
3 ODC-2, he appears to have converted \$99,757.34
4 and he returns \$67,708.15 by way of a
5 certified check on May 1st in 2017.

6 In his argument, Mr. Conner said there is
7 no dispute that he deposited \$23,000 in cash
8 in Ms. Fauntleroy's Wells Fargo account.
9 That's a mischaracterization. There is a
10 dispute. Mr. Conner did not mention these
11 deposits in ODC-7 in response from a letter to
12 my office alleging he converted approximately
13 \$80,000 from this account that he supposedly
14 deposited \$23,000 into.

15 And his testimony said he didn't include
16 that because he wasn't asked. That doesn't
17 make sense. Any reasonable person who
18 receives a letter alleging they stole \$80,000
19 from an account would mention \$23,000 that
20 they deposited into that account subsequently.

21 His answer to the Petition for
22 Discipline as well. I think I said it was
23 seven words. He deposited cash directly into
24 her account. He doesn't say in what amount.

1 He doesn't say when.

2 If Mr. Conner really made these deposits,
3 he would have made it absolutely clear in
4 ODC-7 in his answer to the Petition for
5 Discipline.

6 Even if Mr. Conner had fully reimbursed
7 Ms. Fauntleroy, however, it doesn't change the
8 fact that he stole her funds to begin with.
9 If someone robs a bank, on the way out of the
10 bank they can't just give the money to the
11 police and say, I'll be on my way. It doesn't
12 change the fact they robbed the bank.

13 I renew my argument that the sanction in
14 this case must be severe. An individual like
15 Mr. Conner who is willing to abuse a position
16 of private trust in order to steal tens of
17 thousands of dollars from a vulnerable
18 unsuspecting woman like Ms. Fauntleroy is
19 unfit to practice law.

20 In addition, Mr. Conner is unwilling to
21 take responsibility despite overwhelming
22 evidence to the contrary.

23 At this time, I'd ask the Panel to
24 deliberate in order to determine whether the

1 Office of Disciplinary Counsel made a prima
2 facia showing of at least one rule violations.
3 And if so, we can go into the penalty phase
4 called for in Section 89151 of the
5 Disciplinary Board rules.

6 MS. McBRIDE: Mr. White, I have a
7 question for you.

8 What do you propose is the burden of
9 proof for the Panel with respect to the
10 violation or the purported violation of the
11 criminal statute?

12 MR. WHITE: It's clear and convincing
13 evidence. So Rule of Professional Conduct
14 8.4B says it's professional misconduct for a
15 lawyer to commit a criminal act.

16 So I believe the burden of proof is clear
17 and convincing evidence that the criminal act
18 was committed.

19 MS. McBRIDE: Don't you need to prove a
20 crime beyond a reasonable doubt? Isn't that
21 the burden in a criminal case?

22 MR. WHITE: This isn't a criminal
23 proceeding.

24 MS. McBRIDE: I understand that. But how

1 do we find the predicate without having that
2 proper burden of proof applied? I can
3 understand if somebody has already been
4 convicted. That's easy.

5 MR. WHITE: Yes.

6 MS. McBRIDE: But if we are trying to
7 find that out in the first instance, it's your
8 position that it's clear and convincing
9 evidence?

10 MR. WHITE: Yes. I believe the burden of
11 proof in a disciplinary proceeding is clear
12 and convincing evidence.

13 MS. McBRIDE: Even when there is an
14 underlying crime --

15 MR. WHITE: Right. That's my
16 understanding.

17 MR. CONNER: I respectfully disagree with
18 that. He cites in here a criminal statute as
19 the basis for discipline. As you just
20 indicated, usually if a person, a lawyer is
21 convicted of a crime, been charged with a
22 crime and convicted of a crime, then it's
23 clear that this statute is applicable.

24 But if you are alleging a criminal

1 statute as the basis for professional
2 misconduct, you have to be able to establish
3 that a crime was committed, the crime of
4 theft. And for any criminal charge it beyond
5 a reasonable doubt. It's not clear and
6 convincing.

7 MS. McBRIDE: That would be with respect
8 to 8.4B if you were correct, and I'm not
9 seeing that.

10 MR. CONNER: It's relating to both of
11 them.

12 MS. McBRIDE: What about 8.4C? That's
13 not a criminal statute.

14 MR. CONNER: It's not. But it's used,
15 it's basically saying that -- 8.4C I think is
16 the one that you are referring to right now is
17 again based on the fact that you have
18 committed a crime and, therefore --

19 MS. McBRIDE: I don't think 8.4 --

20 MR. KRAWITZ: We are going to go
21 deliberate. But I think if I understand what
22 you are saying, Mr. Conner, you are suggesting
23 that the only basis for the -- yes, that the
24 only basis for what has been asserted in

1 Paragraph 15 is Paragraph 14. And that's not
2 -- the basis is the entire petition which
3 frankly is Paragraphs 4 through 14 as pled.

4 The basis for the violations or the
5 alleged violations is not just Paragraph 14 of
6 the Petition for Discipline.

7 MR. CONNER: That's not what I'm saying.
8 Paragraphs 4 through 14 brings you to the
9 point that there was theft. 4 through 14
10 brings you to the point that there was a
11 theft, that I committed a crime.

12 And that goes on to say that because I
13 committed a criminal act, then I violated the
14 Rules of Professional Ethics. And that if you
15 go onto 8.4C, the fact that I committed a
16 criminal act is conduct involving dishonesty,
17 fraud, deceit and misrepresentation.

18 So 4 through 14 brings you to the basis
19 that there was a theft. That is what
20 Disciplinary Counsel is alleging.

21 MR. KRAWITZ: We understand your
22 position. We are going to adjourn and
23 deliberate.

24 (Whereupon, a break was taken off the

1 record.)

2 MR. KRAWITZ: Thank you.

3 The Panel has considered all of the
4 testimony that we have heard today and the
5 exhibits that we have been presented with.
6 And we make a finding that there has been a
7 prima facia showing of the violation of the
8 Rules of Professional Conduct.

9 So at this point, we would move onto the
10 dispositional phase of this proceeding.

11 MR. WHITE: I move for the admission of
12 ODC Exhibit 8 which is the report and
13 recommendations of the Disciplinary Board of
14 the Supreme Court of Pennsylvania and the
15 Supreme Court order in the matter of the
16 Office of Disciplinary Counsel versus John
17 Kelvin Conner Docket Number 165-DB-2004.

18 MR. KRAWITZ: Okay.

19 MR. WHITE: If I could provide copies to
20 the Panel.

21 MR. KRAWITZ: Thank you.

22 MR. WHITE: Sure.

23 I would also move for the admission of
24 ODC composite Exhibit 9 consisting of Exhibits

1 ODC 9A through 9G.

2 MR. KRAWITZ: I'm sorry. 9A through G?

3 MR. WHITE: Correct. Just to be clear, I
4 did also move the admission of DC-8.

5 MR. KRAWITZ: I got 8. I just missed the
6 G.

7 MR. WHITE: I could provide copies off DC
8 composite Exhibit 9 to the Panel.

9 MR. KRAWITZ: Any issue, Mr. Conner?

10 MR. CONNER: Yeah. I would object to
11 this. I don't believe this is relevant or
12 admissible.

13 MR. WHITE: I direct the Panel to Section
14 89151 of the Disciplinary Board rules,
15 specifically subprovision --

16 MR. CONNER: What was that again? 89 --

17 MR. WHITE: 89151, specifically
18 subprovision B6, In cases involving charges of
19 mishandling or misuse of funds of clients or
20 others, a financial net worth statement of
21 Respondent attorney's assets and liabilities.
22 Composite Exhibit 9 are liabilities. They are
23 liens and, I believe, one judgment against Mr.
24 Conner.

1 MR. KRAWITZ: We will accept them.

2 MR. WHITE: No additional exhibits from
3 the Office of Disciplinary Counsel.

4 At this time, the Office of Disciplinary
5 Counsel would forego any closing arguments
6 regarding penalty and reserve the right to do
7 so in its brief.

8 MR. KRAWITZ: Mr. Conner, do you need a
9 moment to look at the materials?

10 MR. CONNER: No. I know what the
11 materials are. I have no comment at this
12 point.

13 MR. KRAWITZ: You are reserving anything
14 further for your briefing?

15 MR. CONNER: Yeah. I would just like to
16 do some additional research on this particular
17 rule. But other than that, I'm assuming that
18 if you are asking for briefs, I'll address it
19 at that time.

20 MR. WHITE: I would suggest maybe keeping
21 the record open for a week in case Mr. Conner
22 has any evidence of mitigation that he would
23 like to provide.

24 MR. KRAWITZ: It would be my

1 recommendation. Is a week okay?

2 MR. CONNER: Yeah.

3 So basically, Disciplinary Counsel has
4 found that I am in violation of RPC 8.4B and
5 RPC 8.4C?

6 MR. WHITE: Under Section 89151, I
7 believe the Panel does not have to disclose
8 which rule they found.

9 MR. KRAWITZ: All we need to do is make a
10 ruling there has been a prima facia or
11 determine whether there has been a prima facia
12 showing for a violation. That is all we need
13 to do. So.

14 MR. WHITE: I apologize. It's 89151-A
15 not D.

16 MR. KRAWITZ: That's what we have done.
17 And we do not provide further detail. So we
18 are going to leave the record open for one
19 week. Is that sufficient?

20 MR. CONNER: Okay. And what --

21 MR. KRAWITZ: That would be to the extent
22 you want to add anything else to the record in
23 the dispositional phase.

24 MR. CONNER: The sentencing stage?

1 MR. KRAWITZ: Yes, whether it be
2 mitigating factors or any other response to
3 ODC-8 and ODC-9A through G.

4 MR. WHITE: Correct.

5 One additional matter as well. I'd like
6 to move for a waiver of the 30-page limit for
7 the brief. I think based on the stipulations
8 alone, my proposed findings of fact may well
9 be 30 pages.

10 MR. KRAWITZ: Do you have any objection
11 to that?

12 MR. CONNER: I'm sorry?

13 MR. WHITE: There is a requirement under
14 the rules of disciplinary enforcement that the
15 brief be limited to 30 pages. I have moved
16 for a waiver of that rule because I believe
17 based on the ODC-1 and ODC-2, my proposed
18 findings of fact will be probably 30 pages.

19 MR. CONNER: I'm assuming that there is
20 no arguments from me regarding the proposed
21 findings of facts?

22 MR. KRAWITZ: He is saying in his brief,
23 when he submits his brief, he doesn't want to
24 be limited to the 30-page limit for the

1 briefs.

2 MS. McBRIDE: Because the stipulation
3 alone is lengthy.

4 MR. KRAWITZ: The stipulation of facts
5 alone, he is suggesting could be 30 pages.

6 MR. CONNER: Again, this brief goes
7 towards what he is recommending as far as my
8 punishment goes? Is that correct?

9 MR. WHITE: That, as well as the finding
10 of a rule violation. The rule violations and
11 the penalty as well.

12 MR. KRAWITZ: It's a briefing on all of
13 the issues.

14 MR. CONNER: My brief, in turn, would be
15 my --

16 MR. KRAWITZ: Your response.

17 MR. CONNER: So does he file his first
18 and I get a chance to look at it and respond
19 it to?

20 MR. KRAWITZ: Yes. But to the extent you
21 want to address anything with regard, anything
22 in the dispositional phase now based on the
23 recommendations, we are going to leave the
24 record open for one week --

1 MR. CONNER: Right, I understand that.

2 MR. KRAWITZ: -- for any additional
3 evidence to be submitted. So if you feel that
4 you want to submit any additional evidence,
5 then you need to communicate with ODC. And
6 then we will figure out how we are going to
7 reconvene and when to take the additional
8 evidence. Do you understand?

9 MR. CONNER: I think do.

10 The additional evidence is, again, going
11 towards the punishment phase of this?

12 MR. KRAWITZ: Correct, the dispositional
13 phase.

14 Anything further today?

15 MR. WHITE: Nothing from the Office of
16 Disciplinary Counsel.

17 MR. KRAWITZ: Mr. Conner?

18 MR. CONNER: Nothing.

19 MR. KRAWITZ: So we stand adjourned, but
20 the record remain open for one week. And
21 thereafter, the record will be closed. And
22 the transcript will be approximately two
23 weeks. And then the briefing schedules will
24 be set. Okay?

1 MR. WHITE: Very well.

2 MR. KRAWITZ: Thank you both.

3 MR. WHITE: Thank you.

4 MR. KRAWITZ: We are adjourned.

5 (Whereupon, the hearing was adjourned at

6 3:35 p.m.)

7 (Whereupon, the witness was excused.)

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